IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7540 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PS GOSWAMI - Petitioner(s)
Versus
COLLECTOR & 1 - Respondent(s)

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Appearance :
MR BN PATEL for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
MS MAITHILI MEHTA ASST. GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 09/11/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or order directing the respondents to allot to the petitioner a residential plot

at concessional rate at Gandhinagar without auction in view of the policy contained in resolution dated 29-6-1988 and in compliance of the decision/resolution dated 15th April 1994 of the respondent No.2 i.e. State of Gujarat, Secretary Building and Communication Department.

2. It is the contention on behalf of the petitioner that the petitioner was entitled to a residential plot at concessional rate at Gandhinagar in view of the policy contained in resolution dated 29-6-1988 and therefore, the petitioner was required to submit an application along with necessary affidavit. It appears that the petitioner was required to submit required affidavit on or before 31-12-1988. However, as the father of the petitioner met with an accident, he could not produce the necessary affidavit on or before 31-12-1988 and therefore, the case of the petitioner was not considered. It appears that subsequently the petitioner approached the State Government for condonation of delay in submitting the required affidavit and the State Government considered the request sympathetically and by resolution dated 15-4-1994, the State Government relaxed the period and condoned the delay in submitting the affidavit which was required to be submitted on or before

31-12-1988, as a special case and decision was taken to allot the plot to the petitioner at Gandhinagar at concessional rate without auction and directed Collector, Gandhinagar to act accordingly. It is the case of the petitioner that in spite of the aforesaid decision/resolution dated 15-4-1994 and in spite of the notice served upon the respondents, more particularly, Collector, Gandhinagar to allot the plot as per the Government resolution dated 15-4-1994, petitioner was not allotted the plot and therefore, the petitioner has preferred the present Special Civil Application challenging the inaction on the part of the Collector, Gandhinagar.

3. No affidavit-in-reply is filed on behalf of the respondents, more particularly, Collector, Gandhinagar. Pursuant to the oral instruction, Shri K.H. Vadgama, Mamlatdar from the office of the Collector is personally present in the Court and has submitted that as the petitioner did not submit the required affidavit before stipulated time i.e. on or before 31-12-1988, petitioner was not entitled to the plot and therefore, his application has not been considered. It appears that the office of the Collector, Gandhinagar is not aware of the

resolution dated 15-4-1994 by which the State Government has condoned the delay as a special case and directed the Collector, Gandhinagar to act accordingly and allot the petitioner a plot, or there is a total negligence and inaction on the part of the office of the Collector, Gandhinagar.

4. Considering the resolution of the State Government, Road & Building Department, State of Gujarat dated 15-4-1994(Annexure G, page 35), State Government has condoned the delay as a special case considering the facts and the cause shown by the petitioner and has directed to allot the plot at concessional rate without auction as per the policy. By aforesaid communication dated 15-4-1994, even the Collector, Gandhinagar was directed to act accordingly. However, the petitioner has not been allotted plot on the ground that the requisite affidavit/ form was not submitted within stipulated time though the same has been condoned by the State Government. Under the circumstances, the Collector, Gandhinagar is directed to comply with the resolution/yadi dated 15-4-1994(Annexure G, page 35) and allot the plot to the petitioner, if otherwise the petitioner is entitled to plot in accordance with the scheme/resolution dated 29-6-1988.

And if the petitioner is entitled to the plot even as per the resolution/yadi dated 15-4-1994, then the respondents are directed to allot the plot to the petitioner within a period of four weeks from today.

5. This petition is accordingly allowed. Rule is made absolute with exemplary cost, which is quantified at Rs.2500/-, which the Collector, Gandhinagar is directed to pay to the petitioner directly within a period of four weeks from today. If the aforesaid amount is not paid to the petitioner, the petitioner to approach this Court by way of simple note. DS permitted.

(M.R.SHAH,J.)

shekhar/-